

E-FILED on 11/13/08

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION


IN RE
CYGNUS TELECOMMUNICATIONS
TECHNOLOGY, LLC, PATENT
LITIGATION

MDL No. 1423
No. C-02-00142-RMW
No. C-02-00145-RMW
No. C-02-05437-RMW
No. C-03-05758-RMW
No. C-03-03378-RMW
No. C-03-03594-RMW
No. C-03-03596-RMW
No. C-03-04003-RMW
No. C-04-03001-RMW
No. C-04-03365-RMW
No. C-04-04247-RMW
No. C-04-04359-RMW
No. C-06-03843 RMW
No. C-02-00142-RMW
No. C-06-04295 RMW
No. C-06-06479 RMW

ORDER DENYING REQUEST FOR
CLARIFICATION OF MARCH 30,2007
ORDER

1 On October 24, 2008, Plaintiff Cygnus Telecommunications Technology, LLC ("Cygnus")
2 moved for an order clarifying this court's March 30, 2007 order on defendants' motion for summary
3 judgment. Previously, on September 22, 2008, counsel for Cygnus made a similar request by letter and
4 filed the current motion because he had not received a response to the letter request. The court had
5 responded, a copy of which is attached, but, inadvertently, a copy was not sent to Cygnus's counsel. The
6 court apologizes for this oversight. Nonetheless, after considering Cygnus' motion, the court denies the
7 request.

8
9
10 DATED: 11/13/08



RONALD M. WHYTE
United States District Judge

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13 Counsel are responsible for distributing copies of this document to co-counsel that have not
14 registered for e-filing under the court's CM/ECF program.

15
16 **Dated:** 11/13/08

JAS
17 **Chambers of Judge Whyte**

Attachment

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
UNITED STATES COURTHOUSE
280 SOUTH FIRST STREET
SAN JOSE, CALIFORNIA 95113



CHAMBERS OF
RONALD M. WHYTE
UNITED STATES DISTRICT JUDGE

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October 10, 2008

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Re: Cygnus Telecommunications Technology, LLC v. Americom; MDL-1433;
Case Nos. C-04-0142, C-02-0145, C-02-5437 and C-04-4359-RMW

Dear Counsel:

I write in response to Mr. Sutton's letter to me dated September 22, 2008 concerning "the applicability of [my] March 30, 2007 Order as it related to the on-sale bar under 35 U.S.C. § 102(b)" and Mr. Silvestrini's letter of September 25, 2008 objecting to Mr. Sutton's request. There is a misunderstanding as to what I said or at least intended to say at the September 19, 2008 hearing in the *Cygnus v. American Int'l Telephonics* case. Mr. Sutton raised a question concerning my March 30, 2007 Order which, of course, was the subject of the appeal to the Federal Circuit. My response to Mr. Sutton was intended only to say I could not discuss anything to do with that order because counsel representing the parties were not present. I merely meant

Counsel
October 10, 2008
Page two

to advise Mr. Sutton that if he had something he wanted to present to me, he should put it in a letter and copy all parties. I did not mean to suggest that I would or should take action or respond to any request he submitted. Now that I have seen the nature of his request, I believe it would be highly inappropriate for me to respond and I will not do so.

Very truly yours,

A handwritten signature in black ink that reads "Ronald M. Whyte". The signature is written in a cursive style with a horizontal line underlining the name.

Ronald M. Whyte
United States District Judge